

Section 108(m), Title I

STAT [redacted]

Assistant for Information, DDA  
7D-02, Hqs.

[redacted]

24 January 1978

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STAT Mr.  
OLC

[redacted]

Attached are comments and  
alternative proposed revisions  
for Section 108(m) of Title I  
of the charter legislation.  
These were prepared by the Office  
of Personnel in response to Mr.  
[redacted] request of 16 January.

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Signed

[redacted]

Att: a/s

STAT AI/DDA [redacted] ydc (24 Jan 78)

Distribution:

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20 JAN 1978

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MEMORANDUM FOR: [REDACTED]

Assistant for Information, DDA

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FROM :[REDACTED]  
Acting Director of PersonnelSUBJECT : Proposed Revision of Section 108(m) of Title I,  
Draft of Charter LegislationREFERENCE : Multi adse memo fr AD-M/NFAC dtd 16 Jan 78,  
subj: Charter Legislation, Title I

1. Reference requested the Office of Personnel to provide language to clarify the termination authority of the DCI as cited in Section 108(m) (not (n) as cited in reference) of the draft charter legislation, Title I. Attached are two proposed revisions. The first is essentially the same as the current Section 403c of Title 50 U.S.C.A. (102(c) of the National Security Act of 1947); the second modifies the provisions of the SSCI draft to include the additional authority needed and attempts to limit the reporting to Congress.

2. Also attached are notes on the revisions providing rationale for the proposals.

Atts.  
As Stated



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NOTES ON THE PROPOSED REVISION

1. In drafting these proposed revisions, we have assumed the phrase "Office of the Director" includes the personnel of the various staffs and offices of the ADNIs, such as NFAC, NITC. The proposed legislation, including current Title IV, does not make it clear that the staffs and offices of the ADNIs are also in the CIA, although there is no administrative legislation covering these personnel.

2. Executive Order 9830 gives to the heads of agencies the authority to remove, demote or reassign employees "in the competitive service whose conduct or capacity is such that his removal, demotion or reassignment will promote the efficiency of the Service". While CIA is not in the competitive service, the Director has comparable authority under current CIA statutes. He must have this same authority under any new legislation as an integral part of the responsibility for the personnel management of the Agency. To limit the termination authority to matters of national security would be so restrictive as to negate any possibility of separation for other reasons, such as cause, surplus, et al. Current procedures for termination for such reasons, e.g., to promote the efficiency of the Service, are described in the regulations of the Agency and provide for all normal hearing and appeal processes.

The first proposed revision of Section 108(m) is essentially the same wording as the current authority in Section 403c of Title 50 U.S.C.A. The second version would incorporate a modification of the proposed SCI wording with the addition of the authority in Executive Order 9830.

3. The SCI draft of the paragraph to require "timely" reporting of each termination to the Congress seems unnecessarily cumbersome, though it is undoubtedly a deliberate effort to have the Congress informed of the details of all terminations. This is not a requirement for other government agencies insofar as we can determine. As an alternative, if we have to give on some of these items, we propose the wording of the B version of the draft which would require a report only in cases of separation because of major reorganization situations. It is not intended to be a report of individual cases; but only of the management situation which results from reorganization.

4. We also recommend elimination of the requirement for a declaration of eligibility by the CSR for subsequent employment of a terminated employee by another government agency. This same provision is in the current Section 403c authority and may have been carried over from that version. Not all government offices or commissions require CSR certification, and we believe it can be safely assumed that a terminated employee will not be hired in another government agency unless eligible for such employment under whatever rules are applicable there.

A. Proposed Revision of Section 108(m), Title I

Notwithstanding any other provision of law, the Director may terminate the employment of any officer or employee of the Central Intelligence Agency or the Office of the Director whenever the Director considers such termination necessary or advisable in the interests of the United States. The termination of the employment of any officer or employee under authority of this paragraph shall not affect the right of such officer or employee to seek or accept employment elsewhere in the Government.

B. Alternative Proposal

Notwithstanding any other provision of law, the Director may terminate the employment of any officer or employee of the Central Intelligence Agency or the Office of the Director whenever the Director considers such termination necessary or advisable in the interests of the national security of the United States or the efficiency of the Agency or the Office of the Director. The Director shall report to the PSCI of the House of Representatives and the SCI of the Senate, in a timely manner, on any exercise of the Director's authority under this paragraph when invoked in connection with a major reorganization of the Agency or the Office of the Director. The termination of the employment of any officer or employee under authority of this paragraph shall not affect the right of such officer or employee to seek or accept employment elsewhere in the Government.

NFAC-172-78

16 January 1978

MEMORANDUM FOR: Acting Deputy Director of Central Intelligence  
Deputy Director for Administration ✓  
Deputy Director for Science & Technology  
Deputy Director for Operations  
Director, National Foreign Assessment Center  
Office of General Counsel  
Office of Legislative Counsel  
Office of the Inspector General  
Office of the Comptroller

STAT

FROM : [REDACTED]  
Associate Director-Management  
National Foreign Assessment Center

SUBJECT : Charter Legislation - Title I

On 13 January we handed out to you a report on the discussions held on 11 January with Elliot Maxwell and other staffers from the Senate and House Select Committees. The purpose of this memorandum is to remind you of some commitments that were made on the part of CIA officers participating in those discussions. You should, therefore, be sure to address the following when you make your comments on the new draft of Title I which we will be disseminating later today. These commitments were:

|  |   | <u>Action</u> |
|--|---|---------------|
| Page 3, Section 103 (1)                          | Argument for using the term "national security" rather than "national defense".     | NFAC          |
| Page 10, Section 105<br>Page 14, Section 108 (b) | The argument against regarding counterterrorism as an intelligence activity.        | DDO           |
| Page 14, Section 108 (c)                         | Alternate language to eliminate objections to the terminology (line 3) "to ensure". | OGC/OLC       |

|                             |   | <u>Action</u>        |
|-----------------------------|---|----------------------|
| Page 20, Section 108 (n)    | Language to clarify the termination authority of the DCI.                   | DDA <i>Personnel</i> |
| Page 27, Section 113 (a)(1) | Argument to explain CIA objection to the language regarding appropriations. | DDA <i>Finance</i>   |
| Page 27, Section 113 (a)(3) | Clarifying language regarding DCI's reprogramming authority.                | DDA <i>Finance</i>   |



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24 January 1978

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MEMORANDUM FOR: Mr.

FROM: Thomas B. Yale  
Director of Finance

SUBJECT: Charter Legislation - Title 1

REFERENCE: NFAC 172-178, dtd 18 January 1978, same subject

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We have reviewed the 18 January 1978 draft of Title 1. Our comments including those to which our attention was directed by reference are as follows:

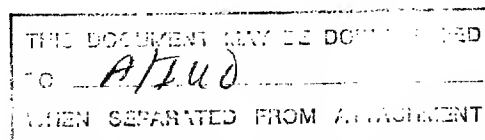
(A) Section A, 113(a)(1), Page 26

This section continues to reflect language which we infer contemplates possible multi-year appropriations. We believe it is important to continue to emphasize the cost effectiveness of conducting CIA activities under a one-year appropriation as has been done until now. As a matter of interest the House Appropriation Committee, in considering the FY 78 budget, proposed a division of the Agency budget into four accounts. The Agency's rationale in support of continuing with a single appropriation is reflected in the attached Tab A.

(B) We understand the previous Section 113(a)(3) relating to DNI reprogramming authority has been transferred to Title IV.

(C) Section 113(b)(1)

We presume the Contingency Reserve Fund will be used only for Agency activities. In that context we suggest the entirety of 113(b) be moved to Title IV.



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(D) Section 113(b)(3), page 27

We believe that the basic procedures established for the withdrawal of funds from the Reserve assures that no obligations will be incurred before the purpose of the release has been approved by the Director of National Intelligence and by the Director of Office of Management and Budget. On that basis it would appear that the provisions of this paragraph are largely redundant of other provisions and we suggest its omission.

(E) Section 113(c), page 28

We suggest omission of the requirement for direct reporting on expenditures certified by the DNI under the authority of this section. Data on expenditures so certified will be reflected in the Agency Annual Financial Report.

[Redacted Signature Box]

for Thomas B. Yale

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Att.

AI/DDA:ydc (31 Jan 78)

Added Distribution:

1 - Mr. [Redacted] O/Compt

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FY-78 HOUSE/SENATE REDUCTIONS

(\$ in Millions)

| <u>ITEM</u>                                | <u>House Red.</u> | <u>Senate Red.</u> | <u>Subject to Appeal</u> | <u>Appeal</u> |
|--|-------------------|--------------------|--------------------------|---------------|
| Division of CIA program into four accounts | Yes               | No                 | Yes                      | Yes           |

Justification and Impact

The House Committee has proposed a division of the CIA budget into four accounts, two—personnel compensation and benefits and operation and maintenance activities—to be available for one year, one—research, development, test and evaluation—to be available for two years, and one—procurement activities—to be available for three years. The same section of the act (Section 857) provides that unobligated balances shall lapse and be returned to the Treasury at the end of the specified periods. We do not object to the final provision, although it may need clarification to exclude Reserve funds.

We do, however, believe that division of the regular CIA operating budget into four accounts is an unnecessary, expensive and impractical approach to what the House cites as an unusual degree of flexibility in the management of CIA appropriations. Multi-year appropriations would, in fact, provide more, rather than less, flexibility while greatly increasing the overhead costs of maintaining financial records.

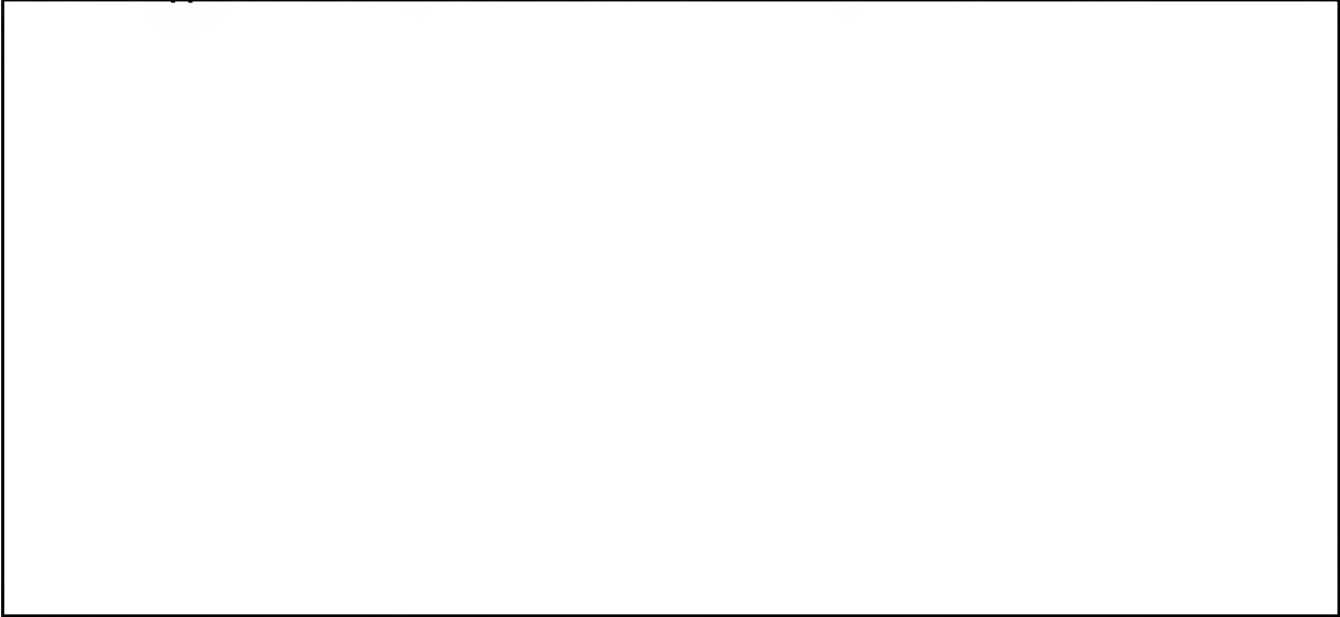
Although in the past CIA funds have not been limited by specific time periods as a matter of law, the full CIA appropriation has been treated as a one-year appropriation, except where the Reserve for Contingencies was concerned. The fact of treatment as an annual appropriation has consistently been spelled out in CIA budget submissions to Congress. While we appreciate the House Committee's offer of added flexibility through two- and three-year appropriations for some purposes, our recent experience has not included any requirement for multi-year funds, and we do not currently expect any such requirement in the future.

From our point of view, the advantage of added flexibility offered by the House provisions is more than offset by the procedural and administrative burden that would be imposed. The House suggests that its proposed provisions

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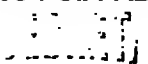
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The final provision of Section 857, providing for the return of unobligated balances to the Treasury, appears to fully cover the House's concern about unusual flexibility in the past. The remaining provisions are unnecessary and undesirable.

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NFAC-172-78

16 January 1978

MEMORANDUM FOR: Acting Deputy Director of Central Intelligence  
Deputy Director for Administration ✓  
Deputy Director for Science & Technology  
Deputy Director for Operations  
Director, National Foreign Assessment Center  
Office of General Counsel  
Office of Legislative Counsel  
Office of the Inspector General  
Office of the Comptroller

FROM :   
Associate Director-Management  
National Foreign Assessment Center

SUBJECT : Charter Legislation - Title I

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